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November 7, 2022

VIA ECF

The Honorable Sarah L. Cave
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Catherine McKoy, et al. v. Trump Corp., et al.*, No. 1:18-cv-9936 (LGS)

Dear Judge Cave:

As you are aware, this firm along with Lewis Brisbois Bisgaard & Smith LLP represents the Defendants in the above-referenced action.¹

We write pursuant to Rule I.F.2 of Your Honor's Individual Practices in Civil Cases ("Individual Rules") to respectfully request provisional approval to file under seal an unredacted version of Defendants' letter in opposition to Plaintiffs' letter requesting leave to serve a deposition subpoena after the fact-discovery cutoff, or in the alternative, permission to brief a motion under Rule 37(c) to preclude Defendants from offering certain testimony at trial (the "Opposition Letter").

In the Opposition Letter, Defendants refer to information found in transcripts that have been provisionally designated "Confidential" by agreement among the parties under Paragraph 3 of the operative Protective Order (ECF 112). In accordance with Paragraph 16 of the Protective Order, which incorporates by reference section I.D.3 of Judge Schofield's Individual Rules and Procedures in Civil Cases, Defendants have provisionally filed the unredacted Opposition Letter under seal and have provisionally redacted references to the information designated as "Confidential" in the version of the Opposition Letter filed on the public docket.²

Pursuant to Paragraph 16 of the Protective Order, "the party with the interest in confidential treatment bears the burden of persuasion" (ECF 112). In this case, although the parties agreed to provisionally designate as "Confidential" all of the deposition transcripts, the information

¹ Donald J. Trump, in his personal capacity, is also represented by Alina Habba, Esq. of Habba Madaio & Associates, LLP.

² In accordance with Rule I.F.2, an unredacted copy of the Opposition Letter, with redactions highlighted, will be filed under seal. *See* Standing Order, 19-mc-583 (Dec. 19, 2019); Electronic Case Filing Rules & Instructions, Rule 6.8. Defendants will timely serve the unredacted version on Plaintiffs.

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contained in the Opposition Letter derives from Defendants' depositions; Defendants, therefore have the "interest in confidential information."

Given the parties' agreement to provisionally designate as "Confidential" all of the deposition transcripts, Defendants take no position at this time as to whether the redacted information filed under seal was properly designated (or should be designated) as confidential, or whether such information ought to remain sealed. Defendants further respectfully reserve the right to challenge the relevant confidentiality designations in the future pursuant to Paragraph 15 of the Protective Order.

Respectfully submitted,

ROBERT & ROBERT PLLC

Clifford S. Robert

CLIFFORD S. ROBERT

cc: All Counsel of Record